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REPORT
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STEEL TRADE LIBERALIZATION PROGRAM IMPLEMENTATION ACT

SEPTEMBER 27, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 3275]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3275) to implement the steel trade liberalization program, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 3, line 8, strike "necessary" and insert "specific".
Page 4, line 11, strike "agreements," and insert "arrangements,".
Page 5, line 16, insert "Implementation" after "Program".
Page 7, line 7, strike "any".
Page 7, line 7, strike "specification" and insert "specifications".
Page 8, line 22, insert "each of" after "during".
Page 9, line 7, strike "applied," and insert "applies,".
Page 9, after line 9 insert the following:

> "(D) The Secretary shall cause to be published in the Federal Register notice of each determination made under this subsection setting forth the reasons for the determination.

BACKGROUND AND PURPOSE

In September 1984, President Reagan rejected a petition for import relief filed on behalf of the domestic carbon steel industry under section 201 of the Trade Act of 1974, and instead announced a national steel policy designed to control imports of unfairly

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traded steel products by the negotiation and enforcement of bilateral voluntary restraint arrangements (VRA's) (see President Reagan's September 18, 1984 decision reprinted in Ways and Means Committee Print 101-8). In October 1984, the House passed H.R. 6301, the Steel Import Stabilization Act, which then was amended by a conference committee (see conference report to accompany H.R. 3398, House Report 98-1156) and enacted into law as title VIII of the Trade and Tariff Act of 1984 (Public Law 98-573).

The Steel Import Stabilization Act authorizes the enforcement of bilateral steel arrangements for up to five years, beginning October 1, 1984, subject to certain conditions concerning reinvestment, competitiveness, and worker retraining which must be met annually by the domestic industry. If these conditions continue to be met, the provisions of the Steel Import Stabilization Act automatically expire on September 30, 1989. If the conditions are not met in any year prior to 1989, then the authority would expire at that earlier time.

Since 1984, steel arrangements have been negotiated by the U.S. Government with 19 foreign countries and the European Community. All arrangements, as well as the statutory authority authorizing their enforcement, are due to expire on September 30, 1989.

During the 101st Congress, various bills were introduced in the House to extend the authority under the Steel Import Stabilization Act beyond September 30, 1989. These bills include H.R. 904 (introduced by Representative Murtha); H.R. 1105 (introduced by Representative Rahall); H.R. 1506 (introduced by Representative Regula); H.R. 2171 (introduced by Representative Cardin); H.R. 2240 (introduced by Representative Kolter); H.R. 2640 (introduced by Representative Johnson of Connecticut); H.R. 2834 (introduced by Representative Owens of Utah); H.R. 3009 (introduced by Representative Pease); and H.R. 3093 (introduced by Representative Visclosky).

The Subcommittee on Trade held public hearings on June 13, 15, and 26, to review the operation of the steel VRA program since 1984, and to consider proposals to extend the program beyond September 1989. Testimony was received from 40 witnesses, including the Congressional Steel Caucus, other Members of Congress, the General Accounting Office, the Federal Trade Commission, representatives of State government, steel producers, steelworkers, steel service centers, and steel users.

On July 25, President Bush made a public statement announcing the establishment of the Steel Trade Liberalization Program. This program includes the negotiation of transitional voluntary restraint arrangements for an additional two and one-half years, until March 31, 1992, the implementation of certain reforms in the short supply program, and the negotiation of an international consensus to eliminate unfair trade practices which are prevalent in the steel sector. President Bush directed U.S. Trade Representative Carla Hills to oversee implementation of the program.

On August 1, 1989, the Subcommittee held another day of hearings to receive testimony from the Administration on the Steel Trade Liberalization Program. The witnesses at this hearing were the United States Trade Representative and the Secretary of Commerce. The Subcommittee subsequently solicited and received public written comments on the Administration's program.

A bill to provide for the implementation of the Steel Trade Liberalization Program as announced by President Bush was subsequently drafted under the direction of Subcommittee Chairman Gibbons, with input from the Administration, Members of the Subcommittee, Members of the Congressional Steel Caucus, and representatives of the major steel producers and major steel users. H.R. 3275, the Steel Trade Liberalizaton Program Implementation Act, was introduced in the House on September 14, 1989, by Representative Gibbons along with Representatives Rostenkowski, Murtha, Regula, Schulze, and Johnson of Connecticut.

The purpose of H.R. 3275 is to extend the authority of the President to enforce bilateral steel arrangements until not later than March 31, 1992, and to endorse and provide for the full and effective implementation of the Steel Trade Liberalization Program as announced by President Bush on July 25, 1989.

Summary of H.R. 3275, "Steel Trade Liberalization Program Implementation Act", as Amended

H.R. 3275, as amended and ordered favorably reported by the Committee on Ways and Means, contains the following major provisions:

1. Expresses support for the full and effective implementation of the Steel Trade Liberalization Program, and expresses the sense of Congress that (a) liberalized market access should be provided to those countries which work together with U.S. efforts to achieve an international consensus, and (b) the U.S. Trade Representative should promptly commence negotiations, through the Uruguay Round of negotiations in the General Agreement on Tariffs and Trade (GATT) and through complementary bilateral agreements, to seek an international consensus in steel trade to provide:

(A) strong disciplines over trade-distorting government subsidies;

(B) lowering of trade barriers so as to ensure market access; and

(C) enforcement measures to deal with violations of consensus obligations.

2. Requires the President to report annually on the progress of the multilateral and bilateral negotiations to seek an international consensus. Such report may be included as part of the annual report to the President on trade agreements.

3. Extends the termination date for enforcement of bilateral steel arrangements to not later than March 31, 1992.

Maintains the current-law requirement of an annual Presidential determination by October 1 of each year in order for the enforcement authority to be renewed for an additional year (except that the 1989 determination would not be due until 30 days after enactment).

4. Provides interim enforcement authority for the President between October 1, 1989, and the date of concluding any bilateral arrangement in order to ensure an orderly transition to that arrangement.

5. Provides authority for short supply allowances and requires the Secretary of Commerce to make short supply determinations within 30 days of submission of a short supply petition (15 days in certain circumstances under the fast track procedure).

Provides for submission of petitions and requires certification of accuracy of factual information submitted by private parties.

Requires the Secretary to consider all relevant factors in making short supply determinations, including domestic capacity utilization, domestic producers' ability to supply at demanded quantities, domestic producers' willingness to supply at a price not an aberration from prevailing domestic market prices, reasonable specifications, and delivery times.

Establishes a 15-day fast track procedure for petitions submitted (a) during periods of 90-percent capacity utilization, (b) for products which were the subject of short supply approvals during each of the two immediately preceding years, or (c) for products which the Secretary determines to be not manufactured in the United States. Under fast-track procedures, there is a rebuttable presumption that short supply exists.

Requires publication in the Federal Register of (a) notice that a short supply request is under consideration, and (b) a short supply determination once it is made, with reasons therefor.

Requires promulgation of regulations by Secretary of Commerce, with interim text to be published within 30 days of enactment.

6. Requires the International Trade Commission to obtain information and report on (a) domestic improvements in quality and service, including improvements that result from industry modernization, and (b) with respect to worker retraining, the amounts used to retrain displaced former employees, as compared to the amounts used for on-the-job retraining for positions within the industry.

7. Also contains updated findings and purposes, a revised definition of "major company," and a requirement for promulgation of regulations by the Secretary of the Treasury.

Committee Action

The Subcommittee on Trade held public hearings on June 13, 15, and 26, 1989, to review the operation of the steel VRA program since 1984, and to consider proposals to extend the program beyond September 1989. Various bills which had been introduced as of that time were included in the scope of the hearings. Testimony was received from 40 witnesses, including the Congressional Steel Caucus, other Members of Congress, the General Accounting Office, the Federal Trade Commission, representatives of State government, steel producers, steelworkers, steel service centers, and steel users.

On July 25, 1989, President Bush announced the establishment of the Steel Trade Liberalization Program. On August 1, the Subcommittee held an additional day of hearings for the sole purpose of receiving testimony from the Administration on the Steel Trade Liberalization Program. The Administration was represented at this hearing by the United States Trade Representative and the Secretary of Commerce. In light of the fact that the Administration's program was not yet formulated at the time of the earlier hearings, the Subcommittee solicited and received written public comments through August 18 on the Administration's program.

H.R. 3275, the Steel Trade Liberalization Program Implementation Act, was introduced in the House on September 14, 1989, by

Representative Gibbons along with Representatives Rostenkowski, Murtha, Regula, Schulze, and Johnson of Connecticut. On September 19, the Subcommittee on Trade convened in public session and ordered H.R. 3275 favorably reported to the full Committee by unanimous voice vote, with technical amendments. On September 22, a report on the Subcommittee's action was filed with the full Committee.

On September 27, 1989, the full Committee on Ways and Means convened in public session and ordered H.R. 3275 as amended by the Subcommittee, favorably reported to the House of Representatives by unanimous voice vote.

Section-by-Section Analysis, Justification and Comparison With the Present Law

SECTION 1. SHORT TITLE

Present law

Title VIII of the Trade and Tariff Act of 1984 is entitled the Steel Import Stabilization Act. (All references hereafter under "present law" discussion are to sections of the Trade and Tariff Act of 1984, as amended by the Omnibus Trade and Competitiveness Act of 1988, unless otherwise noted.)

Explanation of provision

The short title of the bill is the Steel Trade Liberalization

Reasons for change

The short title of the bill reflects the general purpose of the bill, which is to provide for the implementation of the Steel Trade Liberalization Program, a program announced by President Bush on July 25, 1989.

SECTION 2. CONGRESSIONAL FINDINGS AND PURPOSES; SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM

a. Findings and Purposes

Present law

Section 802 of the Steel Import Stablization Act sets forth six Congressional findings concerning (1) the need of the domestic steel industry for increased capital to modernize its plant and equipment, (2) impediments to its international competitiveness, (3) the difficulty in combating unfair trade practices through the trade remedy laws, (4) the need for expeditious and effective action under President's national policy for the steel industry, (5) the importance of linking import relief with industry efforts to improve its competitiveness, and (6) the benefits to the economy that are expected to result from the full and effective implementation of the national policy. Section 802(b) sets forth the purposes of the Steel Import Stablization Act, which are to supplement the authority of the President to achieve the goals of the national policy by granting enforcement powers, and to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

Explanation of provision

Section 2(a) of the bill amends section 802 of the Act by replacing the entire section with new, updated findings and purposes. The new findings indicate that (1) the domestic industry has made significant progress since 1984 toward adjustment; (2) an extension of import relief, through transitional bilateral arrangements, for a period of 2½ years will facilitate continued modernization and worker retraining; (3) liberalization of market access, with preferential treatment for countries which support fair and open trade, will help ensure an orderly return to an open market; (4) the negotiation of an international consensus through the Uruguay Round and through bilateral arrangements to address subsidies and tariff and nontariff barriers will strengthen the international trading system and conditions of global steel trade, and (5) the termination of transitional bilateral arrangements by March 31, 1992, and the full and forceful application of U.S. unfair trade laws, will protect the U.S. national interest in preserving conditions of fair and open trade in the U.S. market.

The new section 802(b) as amended, identifies the purposes of the Act (as amended), which are (1) to endorse the principles and goals of the steel trade liberalization program as announced by the President on July 25, 1989, and provide for its implementation; (2) to grant specific enforcement powers to the President to carry out the terms and conditions of bilateral arrangements entered into for purposes of implementing that program; and (3) to make the continuation of those powers subject to the condition that the steal industry continue to modernize its plant and equipment and provide for appropriate worker retraining.

Reasons for change

The new "findings" section brings the law up to date by recognizing the improvements in modernization and competitiveness achieved by the domestic industry since 1984, and endorsing four fundamental premises of the steel trade liberalization program (an extension of bilateral arrangements for 2-and-one-half years, liberalization of market access, negotiation of an international consensus, and termination of the arrangements in 1992 coupled with the application of U.S. unfair trade laws).

The new "purposes" section indicates the endorsement of the principles and goals of the steel trade liberalization program as well as the granting of specific enforcement powers subject to continued modernization and worker retraining by the domestic industry.

In particular, the Committee notes that the Act contains a finding that "the full and forceful application of the United States unfair trade laws will protect the United States national interest in preserving conditions of fair and open trade." The Committee intends that the full and forceful application of the U.S. unfair trade laws requires that these laws be kept "full and forceful".

b. Sense of Congress

Present law

Section 803 of the Steel Import Stabilization Act expresses the sense of Congress that (1) the President should implement the national steel policy in a manner to ensure a foreign market share that is commensurate with levels under conditions of fair, unsubsidized competition; that such implementation should result in a foreign market share of 17.0 to 0.2 percent; (2) the national policy should not be implemented in a manner contrary to antitrust laws; and (3) if the national policy does not produce satisfactory results within a reasonable time, Congress will consider taking additional legislative action.

Explanation of provision

Section 2(b) of the bill amends section 803 of the Act by replacing it with a new provision which expresses (1) Congressional support for the full and effective implementation of the Steel Trade Liberalization Program; (2) the sense of Congress that such program should be implemented in a manner which provides for liberalized market access for steel products during the period in which bilateral arrangements remain authorized in order to prepare for the eventual termination of such arrangements in 1992, and reliance thereafter on market forces and the full enforcement of U.S. trade laws, and that, in particular, liberalized market access should be provided for those foreign countries that work with the United States to achieve the goals of the international consensus; and (3) the sense of Congress that the U.S. Trade Representative should promptly conduct negotiations, both through the GATT Uruguay Round and through bilateral agreements, to seek an international consensus regarding steel trade that provides for strong disciplines over trade-distorting subsidies, the lowering of trade barriers to ensure market access, and enforcement measures to deal with violations of consensus obligations.

Reasons for change

The Committee endorses the full and effective implementation of the Steel Trade Liberalization Program. In particular, the Committee urges the implementation of the program in a manner which provides for liberalized market access during the period of transitional arrangements, in light of the fact that the program is designed to provide a transition period prior to full termination of voluntary restraints in 1992 and reliance thereafter on full enforcement of U.S. trade laws. The Committee has strong reservations about the general "immunity" from the U.S. trade laws which has been provided under the terms of the existing bilateral arrangements. The Committee feels that the U.S. trade laws should apply equally to all industries, and that steel producers, importers and exporters must be ready for the full application and enforcement of U.S. trade laws as of March 31, 1992. Liberalization of market access during the transition period of 1989–1992, with preferential treatment for countries which work with the United States on the international consensus, should help prepare for the termination of the restraints and the reliance thereafter on U.S. trade law.

The Committee urges the U.S. Trade Representative to include in new bilateral arrangements adequate provisions regarding flexibility of restraint levels, including carryover and advance use. The Committee intends that the Steel Trade Liberalization use. The Committee intends that the Steel Trade Liberalization Program be implemented in a manner which encourages the full utilization of restraint levels consistent with the needs of U.S. consumers. In particular, flexibility provisions should be used wherever possible to respond to changing U.S. market conditions. Arrangements also should contain provisions that prevent countries which have both available quota and willing sellers from not adjusting their quota allocations to allow those sellers to export to the U.S. market.

The Committee is concerned that, in the past, the administration of export licensing regimes by certain countries have resulted in underutilization of restraint levels or served to reserve for that country a market position inconsistent with its ability to supply. The Committee is of the view that any significant underutilized portion of a product quota should be reallocated to other categories or suppliers where demand requires.

The Committee fully supports the negotiation of improved rules and disciplines with respect to the types of unfair trade practices that have been prevalent in global steel trade. The Committee does not contemplate that such an international consensus would be embodied in a separate multilateral steel "code", but would be integrated into the multilateral negotiations now underway in the GATT Uruguay Round as well as bilateral negotiations with steel-exporting countries. The Committee does not endorse the negotiation of any arrangement in steel similar to the Multifiber Arrangement regarding trade in textiles. The Committee hopes that trading partners will be willing to enter into bilateral commitments in this area prior to conclusion of the Uruguay Round as an indication of their support for better rules and disciplines on a multilateral basis as well.

In particular, the Committee notes that the Administration's framework for agreements on trade distorting practices on steel trade envisions agreement by all signatories to obtain the elimination of steel tariffs through the Uruguay Round. The Committee supports this objective which will liberalize steel trade. The Committee also strongly supports the elimination of the tariff inversion contained in the Harmonized Tariff Schedule of the United States between flat-rolled steel and pipe and tube products. An added benefit of the elimination of all steel tariffs is that the tariff inversion problem would be resolved.

c. Annual Report to Congress

Present Law

Section 163(a) of the Trade Act of 1974 as amended by section 1641 of the Omnibus Trade and Competitiveness Act of 1988, requires the President to submit to the Congress, during each calendar year by March 1, an annual report on the operation of the trade agreements program, the provision of import relief and adjustment assistance, and the national trade policy agenda. Such report must include information regarding new trade negotiations;

changes made in duties and nontariff barriers and other distortions of trade; reciprocal concessions obtained; changes in trade agreements; the results of actions to obtain removal of foreign trade restrictions; and other related information.

Explanation of provision

Section 2(b) of the bill adds a new section 803(d) which requires the President to provide to the Congress an annual assessment of the progress of the multilateral and bilateral negotiations to seek an international consensus. Such assessment may be included as part of the annual report on the trade agreements program submitted by the President to the Congress under section 163(a) of the Trade Act of 1974, as amended. Copies of the report, whether as part of the annual report on the trade agreements program or as a separate report, shall be made available to the public by the U.S. Trade Representative.

The Committee expects such report to include (in addition to such other information as the President considers relevant): (1) a description of those areas of agreement that have been reached, and those still under negotiation, regarding effective disciplines over the use of government subsidies and other unfair trade practices prevalent in the steel sector and improvements in market access; (2) specification of measures that have been agreed upon, or are under negotiation, for enforcing the obligations of the countries that are, or are expected to be, party to any agreement resulting from these negotiations; (3) information regarding how the disciplines, improvements and measures referred to above (items (1) and (2)) will be implemented by the parties; and (4) the views of the President regarding the status of efforts to achieve the objectives of the steel trade liberalization program.

Reasons for change

The Committee strongly supports the negotiations initiated under the Steel Trade Liberalization Program. In light of the Constitutional role of Congress in regulating foreign trade, and the potential need for implementing legislation in the future depending on the outcome of these negotiations, the Congress must be kept informed of the progress of the negotiations as well as the eventual outcome. The Committee recognizes, however, that public disclosure of U.S. negotiating strategy and tactics might be harmful to the success of the negotiations, and therefore does not expect such information to be contained in the public report in a manner which jeopardizes achievement of U.S. negotiating objectives. The Committee does expect periodic briefings by U.S. negotiators in closed session to discuss developments which may not be appropriate for public disclosure.

SECTION 3. EXTENSION OF ACT

Present law

Section 805 of the Steel Import Stabilization Act authorizes, until September 30, 1989, the President to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations, restrictions, and other terms contained in bilateral arrangements,

subject to the annual determination requirements of section 806. Section 806 provides that unless the President makes an affirmative annual determination by October 1 of each year (through 1988) that the major steel companies have met certain reinvestment, competitiveness, and worker retraining requirements, and that continuation of the enforcement authority remains necessary, then the enforcement authority terminates. The President must submit an affirmative determination in writing to the Committee on Ways and Means of the House and the Committee on Finance of the Senate by October 1 of each year for the enforcement authority to continue in effect for the next year.

Explanation of provision

Section 3 of the bill amends the date of termination of the enforcement authority to not later than March 31, 1992. The current law requirements with respect to lining annual continuation of the enforcement authority to the submission to the Committee on Ways and Means and the Committee on Finance of an annual affirmative determination by the President remain the same.

The bill furthermore includes a special transitional provision for the 1989 determination, in anticipation of the event that H.R. 3275 not become law in time for the President to make the requisite determination in 1989. Specifically, if H.R. 3275 is not enacted on or before October 1, 1989, then the annual determination otherwise required by October 1, 1989, would be due 30 days after enactment. For purposes of this determination, the President shall apply the definition of "major company" in section 806(b)(2)(A) as in effect prior to October 1, 1989 (i.e., shall not apply the definition as amended by this bill), and shall base his determination on the performance of the major companies during the 12-month period ending September 30, 1989. Beginning with the 1990 determination, the President shall apply the defintion of "major company" as amended by H.R. 3275.

Reasons for change

The extension of the termination date for authority to enforce bilateral arrangements allows the negotiation and enforcement of transitional bilateral arrangements for an additional 2½ year period, consistent with the President's announcement of July 25, 1989.

The special transitional provision for the 1989 determination recognizes the administrative difficulty in maintaining strict adherence to the October 1 deadline since this bill is unlikely to become law before October 1, 1989. The Committee is of the view, nevertheless, that the submission in writing of a determination which confirms that the reinvestment, competitiveness, and retraining requirements have been met during the twelve-month period ending September 30, 1989, is necessary and appropriate to maintain the integrity of the program. Therefore, the bill contains a provision allowing submission of such a determination within 30 days after enactment of H.R. 3275 into law.

SECTION 4. ENFORCEMENT AUTHORITY

a. Interim Authority

Present law

Authority under the Steel Import Stabilization Act to enforce the terms of existing bilateral arrangements expires September 30, 1989. All bilateral arrangements currently in effect also expire September 30, 1989.

Explanation of provision

Section 4(a) of the bill provides the President with interim authority to carry out, between October 1, 1989, and the date of the concluding of any bilateral arrangement, such actions as may be necessary or appropriate to ensure an orderly transition to that arrangement. The authority may be applied to the steel exports of a country with whom the United States is negotiating a bilateral arrangement and with whom the United States expects to conclude an arrangement in the reasonably foreseeable future, but only to the extent necessary to prevent a surge in U.S. imports from that country during the period of negotation, and ensure an orderly transition to the new arrangement. It is not intended to be applied to the steel exports of a country with whom the United States neither is negotiating nor expects to conclude a bilateral arrangement under the steel trade liberalization program.

Reasons for change

The Committee is concerned about a surge in imports of steel products between the expiration of the present arrangements on September 30, 1989, and the negotiation and concluding of new arrangements under the Steel Trade Liberalization Program.

Section 4(a) of the bill expresses the Committee's intention that the President should take whatever action is necessary to prevent such a surge from undermining the implementation of the programs. Such action may include use of the authority to reliquidate entries that would be inconsistent with the arrangements ultimately negotiated. It may also include taking steps to preserve the third country equity provisions that are reauthorized by this bill (see section 805(d)(3) of current law, as added by the Omnibus Trade and Competitiveness Act of 1988).

b. Short Supply Situations

Present law

Section 805(b)(3) of the Steel Import Stabilization Act authorizes the Secretary of Commerce, in connection with the U.S.-European Community (EC) arrangement on steel pipe and tube, to permit the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist. A short supply or emergency economic situation shall not be considered to exist, however, solely because domestic producers are unwilling to supply products a prices below their costs of production (as detemined by the Secretary).

In addition to the short supply allowance with respect to EC pipe and tube imports specifically authorized in the statute, short supply clauses were included in 16 of the 21 bilateral arrangements negotiated by the U.S. Government during the 1984–1989 period. The enforcement of these clauses, and the administration of the process of making short supply determination, has been delegated by the President to the Secretary of Commerce. Within the Department of Commerce, the Office of Agreements Compliance of the International Trade Administration is specifically responsible for administering the short supply program. The Assistant Secretary of Commerce for Import Administration directs the Office of Agreements Compliance.

Explanation of provision

General authority.—Section 4(b) of the bill repeals section 805(b) of current law and replaces it with new authority for the Secretary of Commerce to make short supply determinations. Specifically, the bill provides that if a bilateral arrangement includes a provision relating to short supply, and the Secretary determines that a short supply situation exists with respect to a particular product subject to quantitative limitation under such arrangement, then the Secretary shall authorize the importation of additional quantities of that product, without regard to any aggregate import limitation in effect under the arrangement.

The applicability of the provision hinges on the existence of two facts: (1) the presense of a short supply clause in the bilateral arrangement with the particular country from which the short supply petitioner wishes to obtain its supply; and (2) the detemination by the Secretary of the existence of a short supply situation in the United States with respect to the particular product identified in the short supply petition. If these two conditions exist, then the Secretary must authorize additional imports of that product. Although the Secretary would not have any discretion under these circumstances to deny a request for a short supply allowance, he would have some discretion as to the amount of additional imports authorized for entry, depending on the extent and projected duration of the short supply situation.

The Committee expects that for any product not manfactured in the United States, a short supply allowance would be granted for the full amount needed by the petitioner on an annual basis. For products which are manufactured in the United States but are presently in short supply, a short supply allowance may be granted for less than a full year if the Secretary believes that the short supply situation may be significantly altered prior to the end of a one-year period.

The Committee recognizes that not every bilateral arrangement in effect during the 1984–1989 period contained a short supply clause, and further recognizes that not every bilaterial arrangement to be negotiated for the 1989–1992 period may necessarily contain a short supply clause. Whether a particular arrangement contains short supply authority is a matter of negotiation between the United States and the exporting country. The Committee is concerned, however, that there be improved consistency, transparency, and predictability as to the administration of the short

supply decisionmaking process within the U.S. Government. Therefore, the bill provides for uniform rules, criteria and procedures to be followed in the administration of the short supply authority.

Factors to consider.—A short supply situation exists when there is not sufficient supply of a particular steel product available to meet market demand. In determining whether short supply exists, the Secretary is required to take into account all relevant factors, including five specific factors identified in the bill. The Committee does not intend for any single factor alone to be dispositive, but intends for the Secretary to consider all relevant factors before making a determination on the existence of short supply.

The first specific factor listed in the bill is "the recent levels of capacity utilization for domestic facilities producing the steel product." High rates of capacity utilization are generally indicative of conditions of short supply, and low rates of capacity utilization are generally indicative of available sources of domestic supply. The relevant capacity utilization date to be considered would relate to a specific steel product sector (such as carbon steel wire rod, or stainless steel hot-rolled sheet, or billets) and not reflect capacity utilization in the broad sense of the carbon steelmaking or stainless steelmaking industry.

The Committee recognizes that the Secretary may have some difficulty obtaining up-to-date capacity utilization data for specific product sectors, and therefore the bill requires consideration of this information "to the extent [such] information is available." The Committee urges the Secretary to utilize the information and resources of the International Trade Commission to obtain relevant capacity utilization data. Private industry sources of information may also be used if the Secretary is convinced that such information is credible and accurate. However, whether or not sector-specific capacity utilization data are available, any short supply determination must be based on consideration of the other factors as they relate to the commercially relevant product sector, not a larger industry.

The second specific factor to be considered by the Secretary is the quantity of the steel product requested in a short supply petition and the ability of domestic producers to supply such quantity. If domestic producers are presently able to supply the full quantity of a petitioner's needs, then that is indicative of a situation in which there is no short supply. If, however, domestic producers are presently able to supply none, or only part, of the petitioner's needs, then that is indicative of a short supply situation.

The ability of any domestic producer to supply is to be determined not merely in reference to its physical plant capacity or technical ability to produce that product, but rather in reference to its present marketing strategy, production schedule, order situation, backlog and other indicators of its current position to supply the petitioner's needs without displacing other production or sales, thereby shifting the short supply burden on another steel purchaser. In other words, ability to supply a given quantity should look to current marketing conditions, not simply physical plant.

In considering a domestic supplier's ability to supply a particular product, the Secretary must be careful to define the "product" in terms which reflect the commercial realities of both the steel pro-

ducer and the steel user. The Committee intends that the relevant product be defined in terms of having the same physical and mechanical characteristics, without imposing any significant retooling costs on the part of the steel producer in order to produce the product, or the steel user in order to use the product.

The third specific factor listed in the bill is "the willingness of a domestic producer to supply the steel product at a price which is not an aberration from prevailing domestic market prices." The term "prevailing domestic market prices" means current prices in the U.S. market for domestically produced and imported product, as reflected in actual purchase and sale transactions (not based on offers to sell). Prices for imports which may not reflect "market prices" due to suspected dumping or subsidy practices may be excluded by the Secretary. The Secretary may rely on authoritative private sector sources (such as a consulting firm or financial analyst) for information on what prevailing domestic maket prices are, only if he is convinced that such source is objective and reliable. The term "aberration" means out of the ordinary and present course of normal pricing trends. The Committee does not intend for the Secretary to examine every offered price and determine whether such price is reasonable or appropriate in an absolute sense; the short supply process is not meant to be a means of government price controls. Rather the Committee intends for the Secretary to compare a quoted price from a potential domestic supplier with prevailing domestic market prices to determine whether that domestic producer is a commercially competitive source of supply to the petitioner.

The Committee is particularly concerned about the risk of monopolistic or anticompetitive pricing practices where only one potential domestic supplier exists, or where the potential domestic supplier is also a competitor of the petitioner. The Committee intends for the Secretary to pay particular attention to these situations, and to be sensitive to unusually high price quotes by a potential domestic supplier in such a case.

The fourth specific factor required to be considered is "reasonable specifications requested by the purchaser or any end user." The Committee does not expect that any specification requested by a purchaser or end user automatically be accepted at face value by the Secretary; the Committee expects the Secretary to consider only those specifications which the Secretary deems to be reasonable, using objective standards of commercial custom and usage. On the one hand, the Committee does not intend for petitioners to concoct bogus specifications for the purpose of artificially creating short supply conditions. On the other hand, the Committee does not intend for the Secretary to "second-guess" market demand or force steel users to purchase inadequate or inferior steel. The Secretary should focus on whether the specification is commercially significant.

Among the types of specifications which the Committee deems to be relevant are metallurgical, dimensional, quality, continuous casting, and service requirements. The Committee does not intend for a petitioner to be forced to incur significant additional processing costs in order to utilize domestically produced steel. Furthermore, if the petitioner has been purchasing the same steel product

for the same end use, with the same requested specifications from all of its soucres for a significant period of time, then such specifications should be considered reasonable. A requirement by a purchaser for supply only by "qualified suppliers" may be reasonable and must be considered in the context of what is normal custom or practice for that particular use of the steel product.

The Committee is sensitive to the position of certain manufacturers who purchase steel for the production of an intermediate product under specifications prescribed by another unrelated manufacturer who uses the intermediate product in the production of a new and different product. In such a situation, the specifications with respect to the steel product are being set not by the steel purchaser, but rather by its customer. The Committee urges the Secretary to be particularly sympathetic to the need of such steel purchasers to acquire steel with those particular specifications in order to be able to supply its own customers.

The fifth specific factor is delivery times to the purchaser and any end user of the steel product. The petitioner must be able to obtain supply within the normal order-to-delivery period for that product. In considering whether a potential domestic supplier is a viable source of domestic supply to the petitioner, the Secretary shall take into account the ability of the domestic supplier to deliver the requested product within the time frame designated by the petitioner, provided that such time frame is reasonable in light of normal order-to-delivery periods.

Procedures.—A petition requesting a short supply determination may be filed with the Secretary. Petitions must be in such form and contain such relevant information as the Secretary requires. Requirements for the form and content of an adequate petition shall be set forth in the regulations. Such requirements should include a description of the steel product, details regarding how the steel product is used and the quantities required, and a description of the efforts made by the petitioner to acquire, from both domestic and foreign sources, the quantity of the steel product required by petitioner.

If the Secretary finds that the petition is adequate, a notice must be published in the Federal Register indicating that a short supply determination with respect to the particular product is under consideration. The Committee intends that the Secretary will ascertain the adequacy of a petition within 24 hours of its receipt. The Secretary must provide opportunity for comment by interested persons, prior to his short supply determination, regarding the issues raised in a petition. The Committee does not intend to require a hearing, provided there is reasonable opportunity for submission of written views. The petitioner and any other interested party submitting factual information must certify that the factual information submitted by them is accurate and complete to the best of the person's knowledge. If the Secretary discovers that factual information submitted by a private party is inaccurate, then the credibility and reliability of the party submitting such inaccurate information is tainted. Such fact may be taken into account by the Secretary with respect to future submissions by the same party. Any determination based on inaccurate information should be immediately reconsidered by the Secretary.

Deadlines.—The bill requires the Secretary to make a short supply determination within 15 days of the filing of an adequate petition in any of three situations: (1) if raw steelmaking capacity utilization is 90 pecent or more; (2) if a short supply request was granted for each of the two preceding years; or (3) if the Secretary finds that there is no domestic production of that product. In all other situations, the Secretary must make a short supply determination within 30 days of the filing of the petition. In making any determination subject to the 15-day deadline, the Secretary shall apply a rebuttable presumption that the short supply situation alleged in the petition exists.

The first situation requiring a determination within 15 days is if raw steelmaking capacity utilization in the United States equals or exceeds 90 percent. The Committee expects the Secretary to monitor current raw steelmaking capacity utilization on at least a weekly basis, and if the capacity utilization for the most recent representative period equals or exceeds 90 percent, to consider subsequent petitions under the 15-day fast track procedure. If average capacity utilization for the most recent period subsequently drops below 90 percent, then petitions submitted thereafter would be subject to determinations within a 30-day period.

The capacity utilization data used by the Secretary must come from a reliable objective source of information. It need not be government-generated data, but if it is based on private sector data, the Secretary must at all times be convinced that such data are objective and not subject to any manipulation by an interested party.

The second situation requiring a 15-day fast track determination is if the importation of additional quantities of the steel product was authorized by the Secretary during each of the two immediately preceding years. The Committee intends that a full or partial approval of a short supply request applying to a one-year period for the same product during each of the two immediately preceding years would satisfy this requirement. If a short supply request was granted for less than a one-year period, but at least a six-month period (such as two quarters or one half year), in each of the two immediately preceding years, then such request shall also qualify for fast-track treatment, provided that there was not within that two-year period a formal negative determination by the Secretary as to the existence of short supply conditions.

The third situation requiring a 15-day fast track determination is if the Secretary finds, on the basis of available information and whether or not in the context of a short supply determination, that the steel product is not produced in the United States. The Committee intends that a "finding" of no domestic production may be made by the Secretary outside of the context of a formal short supply petition. Furthermore, any findings prior to date of enactment of this Act by the Secretary of "no domestic production" situations (such as previously approved short supply requests) should be taken into account, but are not necessarily dispositive with respect to qualification for a fast-track treatment under this provision. In particular, the Committee recognizes that the Secretary may have made statements prior to enactment of this bill without the knowledge of the statements' implications for fast-track qualification under the Steel Trade Liberalization Program. Nevertheless,

the Secretary should base any finding of "no domestic production" on available information, which may include past decisions, determinations, or information generally at the disposal of the Secretary.

Once the Secretary makes a finding that the steel product is not produced in the United States, all subsequent short supply determinations by the Secretary with respect to that product shall be subject to the 15-day fast track procedure, unless and until the Secretary subsequently makes a formal negative determination on the existence of short supply conditions. It is not intended for the Secretary to make a new finding with every new submission of a short supply petition.

The Committee notes that there is no domestic industry which directly benefits from quantitative restrictions on products which are not domestically produced. Users of such products, however, are significantly disadvantaged. The Committee urges the U.S. Trade Representative, when negotiating the terms of bilateral arrangements for the 1989–1992 period, to negotiate exemptions for those products which it has reason to believe are not domestically produced in the United States. Such exceptions should be negotiated as part of a package of concessions designed to make the bilateral arrangements more responsive to U.S. market demand.

In each of the three situations requiring a 15-day determination, the Secretary would apply a rebuttable presumption that the short supply situation exists. The burden of proof would lie on a domestic steel producer to come forward and prove that it can and will provide the requested product within a reasonable period of time. Unless such proof is provided, the Secretary shall automatically grant the short supply request at the end of the 15-day period.

Regulations.—The bill requires the Secretary to prescribe regulations to carry out the authority to provide short supply allowances. The interim text of such regulations must be issued within 30 days of the date of enactment of the bill. The regulations must provide for transparency and fairness in the process of making short supply determinations, and must be consistent with the President's announcement of July 25, 1989, establishing the Steel Trade Liberalization Program.

Reasons for change

From time to time during the period 1985–1989, various petitioners for short supply have expressed criticism of the administration of the short supply decisionmaking process. On March 31, 1988, a group of Members of Congress from the Congressional Steel Caucus requested the General Accounting Office to review the Department of Commerce's process for evaluating short supply requests. On June 5, 1989, the General Accounting Office issued its report to the Congressional requesters (GAO/NSIAD–89–166), and on June 15, 1989, the General Accounting Office presented its findings and recommendations to the Committee on Trade in a public hearing.

The announcement of the Steel Trade Liberalization Program by President Bush on July 25 included certain procedural reforms to the short supply decisionmaking process. On August 1, 1989, Secretary of Commerce Robert Mosbacher testified before the Committee on Trade and these reforms. The provisions of section 4(b) of this

bill reflect the concerns of the Congress with respect to the need for increased transparency, fairness, and predictability in the short supply decisionmaking process. All provisions of the bill are consistent with the President's announcement of procedural reforms, and with the Secretary's testimony before the Committee on Trade.

The Committee also notes that the repeal of the old section 805(b) authority relating to the U.S.-EC pipe and tube arrangement does not in any way imply the inapplicability of any section of this bill or of title VIII of the Trade and Tariff Act of 1984 as amended to imports of pipe and tube products from the EC. Rather, the repeal of the 1984 provision reflects the desire of the Committee to embody in the law a generic authority relating to enforcement of all bilateral arrangements and relating to short supply determinations. It is the view of the Committee that the current law definition of "bilateral arrangement" under section 804(1) is broad enough to include within its scope any arrangement with the EC on pipe and tube, whether such arrangement is a new agreement or an extension of the existing arrangement.

c. Regulations for Denial of Entry

Present law

Section 805(c) of the Steel Import Stabilization Act provides that the Secretary of Treasury may provide by regulation for the terms and conditions under which steel products may be denied entry into the United States.

Explanation of provision

Section 4(c) of the bill amends section 805(c) to require the Secretary of Treasury, in consultation with the Secretary of Commerce, to issue regulations.

Reasons for change

It is the view of the Committee that the private sector should be informed, by way of regulations, of ther terms and conditions under which steel products may be denied entry into the United States. Denial of entry of any product has severe consequences for importers, and they should be made aware of the circumstances under which the U.S. Customs Service may be denying entry of steel products as a result of the implementation of the Steel Trade Liberalization Program. The Committee intends for the Secretary of Treasury to consult with the Secretary of Commerce on the content of such regulations, to make sure that they are consistent with the administration of the short supply program and other policies of the Secretary of Commerce with respect to the enforcement of steel bilateral arrangements.

SECTION 5. DEFINITIONS

Present law

Section 804 provides definitions of major terms used in the Steel Import Stabilization Act.

Explanation of provision

Section 5 of the bill amends section 804 of the Act to add a definition for the term "steel trade liberalization program" which is defined as "the program announced by the President on July 25, 1989, designed to achieve an orderly transition to open markets, the continued modernization and adjustment of the steel industry, and the negotiation of an international consensus to restore fair and open steel trade."

Reasons for change

In light of the fact that the steel trade liberalization program was not in effect at the time of enactment of the Steel Import Stabilization Act and therefore is not referenced in that Act, there is a need for a definition of this new term.

SECTION 6. DOMESTIC INDUSTRY EFFORTS TO IMPROVE QUALITY AND SERVICE AND TO PROVIDE WORKER TRAINING

a. Definition of "Major Company"

Present law

Section 806(b)(2)(A) defines "major company" as an enterprise whose raw steel production in 1983 exceeded 1.5 million net tons.

Explanation of provision

Section 6(a)(1) of the bill amends the definition of "major company" to mean an enterprise that produces iron and steel and whose raw steel production in 1988 exceeded 2 million net tons. Section 6(b) makes clear that this amendment, however, shall not affect the definition of "qualified corporation" contained in section 212(g)(1)(A) of the Tax Reform Act of 1986.

Reasons for change

Since 1983, several companies in the steel industry have undergone corporate reorganization, which have resulted in the establishment of two steel companies in place of one (e.g., National/Weirton, and USX/Geneva Works). The amendment to the definition of "major company" is meant to update the 1984 Act's definition to more accurately reflect the current corporate composition of the steel industry, while maintaining as much as possible the application of the reinvestment and retraining requirements of section 806 to the same general group of companies. It is the Committee's understanding that the following companies would be deemed "major companies" under the new definition: Armco, Bethlehem, Inland, LTV, National, Rouge, USX, Weirton, and Wheeling-Pittsburgh.

b. ITC Information on Quality and Service and Worker Retraining

Present law

In making the annual determination concerning the modernization efforts of the industry, the President is required to take into account such information as may be available from the U.S. International Trade Commission (ITC) (section 806(b)(3)).

Explanation of provision

Section 6(a)(2) requires the ITC to seek to obtain information (a) regarding recent improvements in domestic quality and service, and (b) on the general nature of the worker retraining efforts and the amounts used to retrain displaced former employees as compared with on-the-job retraining.

Reasons for change

Since passage of the Steel Import Stabilization Act in 1984, the ITC has reported annually on competitive conditions in the steel industry and industry efforts to adjust and modernize. In these annual reports, the ITC has identified the overall level of funds that steel producers have spent on worker retraining during that past year, indicating whether each company's expenditures were equivalent to at least 1 percent of net cash flow from steel operations. To protect confidentiality, the ITC has not specified the level of expenditure by company, nor has it described the nature of each company's worker retraining efforts.

The Committee respects the need to protect business proprietary data. Nevertheless, it is concerned that the ITC's report has not provided enough information for legislators to evaluate the kinds of worker retraining programs in place at steel mills across the country. Moreover, the report has not indicated whether worker retraining efforts were geared toward workers currently employed or former workers attempting to find new jobs.

The Committee expects the ITC, in future reports to describe the general nature of worker retraining efforts undertaken by the steel industry and provide data on the amounts of money used to retrain former displaced workers compared to the amounts used for on-the-job training.

SECTION 7. EFFECTIVE DATE

Present law

The Steel Import Stabilization Act was enacted on October 30, 1984 with an effective date of October 1, 1984, and expires September 30, 1989.

Explanation of provision

Amendments made by this Act take effect on October 1, 1989.

Reasons for change

In light of the fact that present law is effective through September 30, 1989, and the intention of the Committee and the President that there be an orderly transition from the national policy of 1984–1989 to the Steel Trade Liberalization Program of 1989–1992, the bill provides an effective date of October 1, 1989.

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill: H.R. 3275 was

ordered favorably reported by the Committee on Ways and Means by unanimous voice vote with technical amendments.

Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee has concluded, through hearings on the operation of the steel program over the past five years, consideration of the current condition of domestic steel industry competitiveness and of conditions in world steel trade, and comments, both written and oral, received by the Committee on various proposals to extend the authority of the Steel Import Stabilization Act beyond its September 30, 1989 expiration date, as well as extensive consultations by Committee Members and trade staff with Administration officials and interested parties, that the full and effective implementation of the Steel Trade Liberalization Program, as announced by the President on July 25, 1989, is in the U.S. national interest. H.R. 3275, as amended, provides for an orderly transition to open markets in 1992 through a limited extension of enforcement authority for transitional VRA's, the implementation of improved procedures and criteria in the short supply decisionmaking process, and the negotiation of the international consensus to improve rules and disciplines governing international trade in steel. It is the view of the Committee that the provisions of H.R. 3275, as amended, are necessary and appropriate authorities to implement the President's program.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

Budgetary Authority and Cost Estimates, Including Estimates of the Congressional Budget Office

In compliance with clause 7(a) of rule XII and with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3275, as amended, does not provide any new budget authority or any new or increased tax expenditures. The Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the bill.

In compliance with clause 7(a) of rule XII and with clauses 2(l)(3)(B) and (C) of rule XI of the Rules of the House of Representatives, the Committee agrees with the cost estimates furnished by the Congressional Budget Office on H.R. 3275, as amended, and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 1989.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3275, the Steel Trade Liberalization Program Implementation Act, as ordered reported by the Committee on Ways and Means on September 27, 1989. H.R. 3275 expresses the sense of the Congress that liberalized market access for steel products should be provided and that the United States Trade Representative should negotiate bilateral arrangements regarding international trade of steel and some steel products. The bill extends the termination date for two and one-half years until March 31, 1992 on the President's authority to negotiate bilateral voluntary restraint agreements provided under the Steel Import Stabilization Act and to enforce these bilateral arrangements. Current arrangements are due to expire September 30, 1989 and must be renegotiated. Additionally, the President is required to report annually on the progress of these negotiations.

Because "sense of the Congress" language is merely advisory and not mandatory, it has no direct budget effects. The extension of the President's negotiating authority also has no estimable budget effects, since the President must renegotiate many bilateral agreements with foreign nations, the details of which cannot be known at this time. Other provisions of the bill are not expected to result in significant additional costs to the federal government. In addition, CBO expects enactment of this bill to result in no additional cost to state and local governments.

If you wish further details, please feel free to contact me or your staff may wish to contact Caroline Ratcliffe of the Tax Analysis Division at 226–2720.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

INFLATIONARY IMPACT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3275, as amended, simply authorizes the enforcement of bilateral agreements which have not yet been negotiated, but are expected to be negotiated with various steel-exporting nations. The fate of the negotiations and the content of any agreements ultimately negotiated are not known to the Committee at this time. However, it is the Committee's view that H.R. 3275, as amended, is unlikely to have any inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 3275 as reported, are shown as follows (existing law proposed

to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

STEEL IMPORT STABILIZATION ACT

(Title VIII of Public Law 98–573)

* * * * * * *

[SEC. 802. FINDING AND PURPOSES.

[(a) The Congress finds that—

[(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

[(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding steel products;

[(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

[(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

[(5) import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness; and

[(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

[(b) The purposes of this title are—

[(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

[(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

[SEC. 803. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY

[It is the sense of the Congress that—

[(1) the President should, in conjunction with the authority granted under this title, implement the national policy for the steel industry in a manner to ensure that the foreign share of the United States market for steel products is commensurate

with a level which would obtain under conditions of fair, unsubsidized competition; and it is further the sense of Congress that when this policy is fully implemented, it will result in a foreign share of the domestic market of 17.0 to 20.2 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

[(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

[(3) if the national policy for the steel industry does not produce satsfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.]

SEC. 802. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) since 1984, the United States steel industry has made significant progress toward adjustment, through modernization of production facilities, elimination of excess capacity, reduction of production costs, and improvement of productivity;

(2) an extension of import relief, through transitional bilateral arrangements, for a period of two and one-half years will facilitate the steel industry's continued modernization and worker retraining;

(3) liberalization of market access during the period of transitional bilateral arrangements, with preferential treatment for countries who support fair and open trade, will help ensure an orderly return to an open market;

(4) the negotiation of an international consensus through the Uruguay Round of trade negotiations and through bilateral agreements to address subsidies and tariff and nontariff barriers will strength the international trade system and conditions of global steel trade; and

(5) the termination of transitional bilateral arrangements by March 31, 1992, and the full and forceful application of the United States unfair trade laws, will protect the United States national interest in preserving conditions of fair and open trade in the United States market.

(b) The purposes of this title are—

(1) to endorse the principles and goals of the steel trade liberalization program as announced by the President on July 25, 1989, and provide for its implementation;

(2) to grant specific enforcement powers to the President to carry out the terms and conditions of bilateral arrangements entered into for purposes of implementing that program; and

(3) to make the continuation of those powers subject to the conditions that the steel industry continue to modernize its plant and equipment and provide for appropriate worker retraining.

SEC. 803. SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM.

(a) The Congress supports the full and effective implementation of the steel trade liberalization program.

(b) It is the sense of the Congress that the steel trade liberalization program should be implemented in a manner which provides for liberalized market access for steel products during the period in which bilateral arrangements remain authorized in order to prepare for the eventual termination of such arrangements in 1992 and reliance thereafter on market forces and the full enforcement of United States trade laws. In particular, liberalized market access should be provided to those foreign countries that work with the United States to achieve the goals referred to in subsection (c).

(c) It is further the sense of the Congress that the United States Trade Representative should promptly conduct negotiations, through the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade and through complementary bilateral arrangements, to seek an international consensus regarding steel trade that provides for—

(1) strong disciplines over trade-distorting government subsidies;

(2) the lowering of trade barriers so as to ensure market access; and

(3) enforcement measures to deal with violations of consensus obligations.

(d) The President shall provide to the Congress an annual assessment of the progress of the negotiations referred to in subsection (c). The President may include the assessment in the annual report required under section 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) regarding the trade agreements program.

SEC. 804. DEFINITIONS.

As used in this title—

(1) The term "bilateral arrangements" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of steel products as may be necessary to implement the national policy for the steel industry *or the steel trade liberalization program.*

* * * * * * *

(4) The term "steel trade liberalization program" means the program, announced by the President on July 25, 1989, designed to achieve an orderly transition to open markets, the continued modernization and adjustment of the steel industry, and the negotiations of an international consensus to restore fair and open steel trade.

SEC. 805. ENFORCEMENT AUTHORITY.

(a) Subject to section 806, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other docu-

mentation issued by a foreign government be presented as a condition for the entry into the United States of steel products. *The President is further authorized to carry out, between October 1, 1989, and the date of the concluding of any bilateral arrangement, such actions as may be necessary or appropriate to ensure an orderly transition to that arrangement.*

[(b)(1) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension, or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to paragraph (2) of this subsection whenever he determines that—

[(A) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

[(B) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by the Secretary of Commerce.

[Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under paragraph (2) is requested.

[(2) At the request of the Secretary of Commerce pursuant to paragraph (1), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement.

[(3) Nothing in this subsection may be construed as prohibiting the Secretary of Commerce from permitting the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist; except that a short supply or emergency economic situation shall not be considered to exist solely because domestic producers are unwilling to supply products at prices below their costs of production (as determined by the Secretary of Commerce).]

(b)(1) If—

(A) a bilateral arrangement includes a provision relating to short supply situations; and

(B) the Secretary of Commerce (hereinafter in this subsection referred to as the "Secretary") determines, in accordance with this subsection, that a short supply situation exists in the United States with respect to a steel product that is subject to a quantitative limitation under such arrangement;

the Secretary shall authorize the importation of additional quantities of that product without regard to any aggregate quantitative import limitation in effect under such arrangement.

(2) In determining under this subsection whether a short supply situation exists in the United States with respect to a steel product, the Secretary shall take into account all relevant factors, including—

(A) (to the extent information is available) the recent level of capacity utilization for domestic facilities producing the product;

(B) the quantity of the steel product requested in a short *supply petition and the ability of domestic producers to supply the product in such quantity;*

(C) the willingness of a domestic producer to supply the steel product at a price which is not an aberration from prevailing domestic market prices;

(D) reasonable specifications requested by the purchaser or any end user; and

(E) delivery times to the purchaser and any end user of the steel product.

(3)(A) A petition requesting a determination under this subsection may be filed with the Secretary. The petition must be in such form and contain such relevant information as the Secretary requires.

(B) If the Secretary considers that a petition filed under subparagraph (A) is adequate, the Secretary shall promptly cause to be published in the Federal Register a notice that a determination under this subsection with respect to the steel product concerned is under consideration.

(C) The Secretary shall provide opportunity for comment by interested persons regarding the issues raised in a petition.

(D)(i) The petitioner shall certify that the factual information contained in the petition and any additional submission is accurate and complete to the best of the petitioner's knowledge.

(ii) An interested person shall certify that the factual information submitted by that person to the Secretary is accurate and complete to the best of the person's knowledge.

(4)(A) If an adequate petition is filed under paragraph (3)(A), the Secretary shall determine, not later than the day specified in subparagraph (B)—

(i) whether a short supply situation exists in the United States with respect to the steel product; and

(ii) if the determination under clause (i) is a affirmative, the quantity of the steel product that the Secretary will authorize for importation.

(B) The Secretary must make a determination with respect to a petition not later than—

(i) the 15th day after the day on which the petition is filed if—

(I) the raw steel making capacity utilization in the United States equals or exceeds 90 percent,

(II) the importation of additional quantities of the steel product was authorized by the Secretary during each of the 2 immediately preceding years, or

(III) the Secretary finds, on the basis of available information (and whether or not in the context of a determination under this subsection), that the steel product is not produced in the United States; or

(ii) the 30th day after the day on which the petition was filed if neither subclause (I), (II), or (III) of clause (i) applies.

(C) In making a determination with respect to which subparagraph (B)(i) applies, the Secretary shall apply a rebuttable presumption that the short supply situation alleged in the petition exists.

(D) The Secretary shall cause to be published in the Federal Register notice of each determination made under this subsection setting forth the reasons for the determination.

(5) If under this subsection the Secretary authorizes the importation of a specified quantity of a steel product, the Secretary shall notify a representative of the appropriate foreign government and issue to the petitioner the necessary documentation to permit the importation of that quantity.

(6) The Secretary shall prescribe regulations to carry out this subsection. The interim text of such regulations shall be issued on or before the 30th day after the date of the enactment of the Steel Trade Liberalization Program Implementation Act. The regulations shall provide for transparency and fairness in the process of making short supply determinations, and shall be consistent with the President's announcement on July 25, 1989, establishing the steel trade liberalization program.

(c) For purposes of carrying out this title, the Secretary of the Treasury [may provide], *in consultation with the Secretary of Commerce, shall provide* by regulation for the terms and conditions under which steel products may be denied entry into the United States.

(d)(1) * * *

* * * * * * *

(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called "third country equity provision" of an arrangement entered into under the [President's Steel Policy,] *steel trade liberalization program* take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.

SEC. 806. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 805 shall terminate—

(1) at the close of [the fifth anniversary of the effective date of this title;] *March 31, 1992;* or

(2) at the close of the first, second, third, [or fourth] *fourth, fifth, sixth, or seventh* anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b)(1) * * *

(2) For purposes of this subsection—

[(A) the term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.]

(A) The term "major company" means an enterprise that produces iron and steel and whose raw steel production in the United States during 1988 exceeded 2,000,000 net tons.

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(3) For the purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry. *For the purposes this paragraph, the United States International Trade Commission shall seek to—*

(A) obtain information from purchasers of domestic steel products, as well as from domestic producers of steel products, regarding recent improvements in domestic quality and service, including those that result from industry modernization; and

(B) obtain information on—

(i) the general nature of the worker retraining efforts undertaken by the steel industry, and

(ii) with respect to the moneys referred to in paragraph (1)(B), the amounts used to retrain displaced former employees as compared with the amounts used for on-the-job retraining within the industry.

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